

STATE OF HAWAII—DEPARTMENT OF TAXATION
INSTRUCTIONS FOR FORM N-316
MOTION PICTURE AND FILM PRODUCTION INCOME TAX CREDIT

GENERAL INSTRUCTIONS

Each taxpayer subject to Hawaii's net income tax, who incurs production costs and transient accommodations costs in Hawaii while producing a motion picture or television film that benefits Hawaii's economy, may claim a refundable motion picture and film production income tax credit for the taxable year in which the credit is properly claimed. The tax credit is comprised of two parts: 1) an amount up to 4% of the costs incurred in Hawaii (including expenditures for transient accommodations) in the production of a motion picture or television film; and 2) an amount up to 7.25% of the costs incurred in Hawaii in the production of a motion picture or television film for actual expenditures for transient accommodations.

With regard to the credit for production costs, two special provisions apply:

1. If a deduction is taken under Internal Revenue Code (IRC) section 179 (regarding an election to expense certain depreciable assets), no tax credit shall be allowed for those production costs for which the section 179 deduction was taken; and
2. The basis of eligible property for depreciation or accelerated cost recovery system (ACRS) purposes for state income taxes shall be reduced by the part of the tax credit related to production costs that is allowable and claimed.

In the case of an S corporation, partnership, estate, or trust, the tax credit allowable is for qualified production costs and qualified transient accommodations costs incurred by the entity for the taxable year. The production costs and the transient accommodations costs which the tax credit is computed is determined at the entity level. Each S corporation shareholder, partner, or beneficiary of an estate or trust shall separately take into account for its taxable year with or within which the entity's taxable year ends, the shareholder's, partner's, or beneficiary's share of the production costs and the transient accommodations costs and the resulting tax credit. Each S corporation shareholder's production costs and transient accommodations costs is the shareholder's allocated share of the S corporation's production costs and transient accommodations costs. A partner's share of the production costs and the transient accommodations costs shall be determined in accordance with the ratio in which the partners divide the general profits of the partnership. The production costs and the tran-

sient accommodations costs of the partnership which are subject to a special allocation that is recognized under IRC section 704(a) and (b) shall be recognized for the purposes of this tax credit. A beneficiary's share of the production costs and transient accommodations costs is allocated between the entity and the beneficiaries based on the income of the entity allocable to each beneficiary. The term "beneficiary" includes an heir, legatee, or devisee.

If a taxpayer is a member of a pass-through entity (i.e., S corporation, partnership, estate, or trust) and the taxpayer claims a tax credit for the entity's qualified production costs and qualified transient accommodations costs, the taxpayer shall attach a copy of the applicable Schedule K-1 to Form N-316 when the tax credit is claimed.

Amount of credits. The maximum allowable tax credits, up to 4% of the production costs and up to 7.25% of the transient accommodations costs, may be claimed when the production of the motion picture or television film provides greater benefits to Hawaii's economy. The amount of the tax credits shall be based upon guidelines issued by the Department of Taxation.

Tax credit to be deducted from income tax liability, if any; refunds. If the tax credit exceeds the taxpayer's income tax liability, the excess of the tax credit over the liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit shall be made for amounts less than \$1.

Time for filing. All claims, including any amended claims, for a tax credit shall be filed on or before the end of the 12th month following the close of the taxable year for which the tax credit may be claimed. An extension of time for filing a return does not extend the time for claiming the tax credit. Failure to comply with the foregoing provision shall constitute a waiver of the right to claim the tax credit.

Refer to Tax Information Release No. 98-1 for more information.

SPECIFIC INSTRUCTIONS

Note for Form N-35, N-20, and N-40 filers:

The production costs and the transient accommodations costs which the tax credit is computed is determined at the entity level. Depending on the qualified costs incurred by the S corporation or partnership, stop at lines 5, 12, 17,

and/or 22. Enter the qualified costs on the applicable Schedule K, Form N-35 or Schedule K, Form N-20. Enter each shareholder or partner's share of the costs on the appropriate line of Schedule K-1, Form N-35 or Schedule K-1, Form N-20.

For Form N-40 filers, depending on the qualified costs incurred by the estate or trust, enter the allocable costs to the estate or trust on lines 5, 12, 17, and/or 22. Enter the distributive share of the costs to each beneficiary on Schedule K-1, Form N-40, line 10.

Line 1 — Enter the total of production costs incurred in the taxable year qualifying for a **4% credit**.

Line 2 — Flow through of production costs qualifying for a **4% credit** received from other entities, if any. In the case of a taxpayer who is a member of a pass-through entity (i.e., S corporation, partnership, estate, or trust) and the taxpayer claims a tax credit for the entity's production costs qualifying for the 4% credit enter the amount of the costs received from the entity on line 2.

Line 4 — Deduct the production costs for which a deduction is taken under IRC section 179.

Line 5 — See *Note for N-35, N-20, and N-40 filers* above. Estates and trusts: The total production costs qualifying for a **4% credit** on line 5 is to be allocated between the estate or trust and the beneficiaries in the proportion of the income allocable to each party. On the dotted line to the left of line 5, enter the production costs allocable to the estate or trust with the designation "N-40 PORTION." Attach Form N-316 to the N-40 return and show the distributive share of the costs for each beneficiary.

Form N-35 filers, enter the amount on line 5 on Schedule K, line 12g(1). Form N-20 filers, enter the amount on line 5 on Schedule K, line 18a. Form N-40 filers enter the distributive share amount on line 10 of Schedule K-1, Form N-40, for each beneficiary.

Line 8 — Enter the total of production costs incurred in the taxable year qualifying for a **less than 4% credit**.

Line 9 — Flow through of production costs qualifying for a **less than 4% credit** received from other entities, if any. In the case of a taxpayer who is a member of a pass-through entity (i.e., S corporation, partnership, estate, or trust) and the tax-

payer claims a tax credit for the entity's production costs qualifying for a **less than 4%** credit enter the amount of the costs received from the entity on line 9.

Line 11 — Deduct the production costs for which a deduction is taken under IRC section 179.

Line 12 — See *Note for N-35, N-20, and N-40 filers* on page 1. Estates and trusts: The total production costs qualifying for a **less than 4%** credit on line 12 is to be allocated between the estate or trust and the beneficiaries in the proportion of the income allocable to each party. On the dotted line to the left of line 12, enter the production costs allocable to the estate or trust with the designation "N-40 PORTION." Attach Form N-316 to the N-40 return and show the distributive share of the costs for each beneficiary.

Form N-35 filers, enter the amount on line 12 on Schedule K, line 17. Form N-20 filers, enter the amount on line 12 on Schedule K, line 30. Form N-40 filers enter the distributive share amount on line 10 of Schedule K-1, Form N-40, for each beneficiary.

Line 15 — Enter the total transient accommodations costs incurred in the taxable year qualifying for a **7.25%** tax credit.

Line 16 — Flow through of transient accommodations costs qualifying for a **7.25%** credit received from other entities, if any. In the case of a taxpayer who is a member of a pass-through entity (i.e., S corporation, partnership, estate, or trust) and the tax-

payer claims a tax credit for the entity's transient accommodations costs qualifying for a **7.25%** credit enter the amount of the costs received from the entity on line 16.

Line 17 — See *Note for N-35, N-20, and N-40 filers* on page 1. Estates and trusts: The total transient accommodations costs qualifying for a **7.25%** credit on line 17 is to be allocated between the estate or trust and the beneficiaries in the proportion of the income allocable to each party. On the dotted line to the left of line 17, enter the transient accommodations costs allocable to the estate or trust with the designation "N-40 PORTION." Attach Form N-316 to the N-40 return and show the distributive share of the costs for each beneficiary.

Form N-35 filers, enter the amount on line 17 on Schedule K, line 12g(2). Form N-20 filers, enter the amount on line 17 on Schedule K, line 18b. Form N-40 filers enter the distributive share amount on line 10 of Schedule K-1, Form N-40, for each beneficiary.

Line 20 — Enter the total transient accommodations costs incurred in the taxable year qualifying for a **less than 7.25%** tax credit.

Line 21 — Flow through of transient accommodations costs qualifying for a less than 7.25% credit received from other entities, if any. In the case of a taxpayer who is a member of a pass-through entity (i.e., S corporation, partnership, estate, or trust) and the taxpayer claims a tax credit for the

entity's transient accommodations costs qualifying for a **less than 7.25%** credit enter the amount of the costs received from the entity on line 21.

Line 22 — See *Note for N-35, N-20, and N-40 filers* on page 1. Estates and trusts: The total transient accommodations costs qualifying for a **less than 7.25%** credit on line 22 is to be allocated between the estate or trust and the beneficiaries in the proportion of the income allocable to each party. On the dotted line to the left of line 22, enter the transient accommodations costs allocable to the estate or trust with the designation "N-40 PORTION." Attach Form N-316 to the N-40 return and show the distributive share of the costs for each beneficiary.

Form N-35 filers, enter the amount on line 22 on Schedule K, line 17. Form N-20 filers, enter the amount on line 22 on Schedule K, line 30. Form N-40 filers enter the distributive share amount on line 10 of Schedule K-1, Form N-40, for each beneficiary.

Line 25 — Enter the total tax credit claimed for the year on this line and on Schedule CR, line 17 or enter the estate's or trust's share on Form N-40, Schedule F, line 2. For individual taxpayers, round the amount on line 25 to the nearest dollar.

If the tax credit exceeds the taxpayer's income tax liability, the excess of the tax credit over the liability shall be refunded to the taxpayer; provided that no refunds or payment on account of the tax credit shall be made for amounts less than \$1.